

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 8:10CR34
)
v.)
)
EBONI HILL,) ORDER
)
Defendant.)
_____)

This matter is before the Court on defendant's motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2) (Filing No. 41). Her motion is premised on the Guidelines, Amendment 706, and USSG § 1B1.10(b). However, the calculation of a sentence to be served by the defendant is not controlled by the United States Sentencing Guidelines. Title 18, U.S.C. § 841B provides that "in the case of a violation of subsection (a) of this section involving 5 grams or more of a mixture or substance containing cocaine base requires the imposition of a sentence of not less than 60 months."

It was this provision in the United States Code which governed the determination of defendant's sentence, and the guidelines cannot trump the statute. For these reasons, defendant's motion to reduce sentence will be denied. Accordingly,

IT IS ORDERED that defendant's motion to reduce sentence is denied.

DATED this 14th day of September, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court